

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DE'ANGELO MANUEL,)
#266919,)
)
Plaintiff,)
)
v.) **CIVIL ACTION NO. 2:19-CV-105-MHT**
)
KAY IVEY, et al.,)
)
Defendants.)

DEFENDANTS' MOTION TO RECONSIDER

COME NOW Kay Ivey ("Ivey") and former member of the Alabama Board of Pardons and Paroles ("Board") Lynn Head ("Head"), Defendants in this case, and file this Motion to Reconsider their Motion to Stay Discovery. As grounds therefore, Defendants state as follows:

1. In this Court's Order denying Defendants' Motion to Stay, the sole basis stated for the denial was that Manuel's "complaint when liberally construed by the court seeks injunctive relief in the form of a *fair consideration* for parole[.]" (*See Doc. 80* (emphasis added)).
2. However, the Eleventh Circuit has explicitly held that "[u]nless there is a liberty interest in parole, the procedures followed in making the parole determination are *not required to comport with standards of fundamental fairness.*" *Slocum v. Georgia State Bd. of Pardons & Paroles*, 678 F.2d 940, 942 (11th Cir. 1982) (emphasis added).¹ In fact, this Court has cited to and quoted from *Slocum* at length as recently as February 26, 2021. *See Shrader v. Walker*, No. 2:21-CV-138-WHA-JTA, 2021 WL 1897741, at *2–3 (M.D. Ala. Feb. 26, 2021), report and

¹ Under the governing case law, Alabama inmates have no liberty interest in parole or parole consideration. *See Thomas v. Sellers*, 691 F.2d 487, 489 (11th Cir. 1982); *see also Ellison v. Alabama Bd. of Pardons & Paroles*, No. 17-13235-D, 2017 WL 6947946, at *5 (11th Cir. Dec. 13, 2017) ("Alabama has not created a liberty interest in parole.").

recommendation adopted, No. 2:21-CV-138-WHA-JTA, 2021 WL 1894134 (M.D. Ala. May 11, 2021) (citing *Slocum* for the proposition that under *Slocum*, an inmate has no right to fair consideration of parole and that under *Slocum*, an inmate does not state a constitutional violation by claiming a lack of fairness in parole consideration).

3. In light of the Eleventh Circuit's decision in *Slocum* and this Court's recent holding in *Shader* which agreed with the *Slocum* holding, Defendants' request that at the very least, their Motion to Stay Discovery be granted and discovery stayed until this Court determines whether Manuel has properly brought a judiciable claim before this Court in a ruling on the pending Special Report. See *Slocum*, 678 F.2d at 942; see *Shrader*, No. 2:21-CV-138-WHA-JTA, 2021 WL 1897741, at *2–3; see also *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997) (“[f]acial challenges to the legal sufficiency of a claim or defense . . . **should, however, be resolved before discovery begins**[, and f]ailure to consider and rule on [such] pretrial motions before issuing dispositive orders can be an abuse of discretion.”) (emphasis added) (original footnote omitted).

WHEREFORE, PREMISES CONSIDERED, Defendants request that this Court reconsider its prior Order (Doc. 80), grant Defendants' Motion to Stay Discovery, and enter an order staying discovery until this Court rules on Defendants' Special Report.

Respectfully submitted this the 2nd day of June 2021.

/s/ Greg Locklier
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record, or if applicable, I certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

**De'Angelo Manuel, AIS #266919
Fountain Correctional Facility
Fountain 3800
Atmore, AL 36503-3800**

Done this the 2nd day of June 2021.

s/ Greg Locklier
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